

Regular Session, 2009

HOUSE BILL NO. 446

BY REPRESENTATIVE HENRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/AD VALOREM TAX: Provides relative to ad valorem taxes

1 AN ACT

2 To amend and reenact R.S. 47:2062, 2142(A) and (C), 2144, 2145(B), 2153(B)(5), and  
3 2155(A), relative to ad valorem taxes; to provide for the assistance to each parish tax  
4 assessor by an attorney or agency; to provide for the collection of penalties; to  
5 provide relative to undivided interests in title to tax sale property; to provide for  
6 bidding procedures; to provide for the form for tax sale certificates; and to provide  
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:2062, 2142(A) and (C), 2144, 2145(B), 2153(B)(5), and 2155(A)  
10 are hereby amended and reenacted to read as follows:

11 §2062. Appointment and compensation of attorney for state or parish tax collector  
12 ~~In the parish of Orleans there shall~~ There may be an attorney at law ~~to be~~  
13 ~~appointed by the Attorney General, or agency~~ whose duty it shall be to aid the parish  
14 tax collectors ~~in the parish~~ in the collection of all taxes, and to represent the tax  
15 collectors in all suits for the reduction of assessments. Upon all taxes and penalties  
16 collected through the assistance of such attorney or agency, and in all suits for the  
17 reduction of assessments where the party applying for the reduction shall be decreed  
18 not entitled to the reduction as claimed by him, the delinquent owing the tax and the  
19 party applying for the reduction of assessment shall pay a commission to such  
20 attorney of ten per centum (10%) calculating same upon the aggregate amount of

1 taxes and penalties so collected and paid over to the tax collector; this attorney's  
2 commission shall be paid by the taxpayer and collected by the tax collector as costs  
3 at the same time that the taxes, interest, and penalties are collected.

4 \* \* \*

5 §2142. Movable property; seizure and sale

6 A. The tax collector is authorized to collect the taxes due or which may be  
7 due by any person, upon a movable property, for any year past or the current year,  
8 either by taking into his possession so much of the movable property as may be  
9 required, in his opinion, to realize the amount of the tax or taxes, or by placing a  
10 keeper upon the movable property subject to the tax until the day of sale, upon which  
11 day so much of the property as may be necessary to realize the tax or taxes, interest,  
12 penalties, and costs, for which it has been seized, shall be sold to the highest bidder,  
13 without appraisement and without redemption; ~~However~~ however, after the tax  
14 collector has seized the movable property, as above set out, he shall ascertain the  
15 amount of taxes due for the past year by reference to the assessment roll, and for the  
16 current year by fixing the same value or percentage of value as was used by the state  
17 and the parish in the year preceding on like property, and by applying to that value  
18 the rate of taxation applied to property of the same class in the preceding year.

19 \* \* \*

20 C. On the expiration of three days after the date of giving notice as provided  
21 in Subsection B of this Section, the tax collector shall advertise, in the manner  
22 provided for judicial sales of movable property, that he will sell so much of the  
23 property so seized as may be necessary to pay all the taxes, interest, penalties, and  
24 costs for which the seizure had been made. The sale shall be made without  
25 appraisement and without redemption.

26 \* \* \*

27 §2144. Movable property; summary seizure to secure payment

28 The tax collector shall seize the movable property of any tax debtor without  
29 notice when he believes that such seizure is necessary to enable him to collect any

1 tax due by the debtor, and he shall make such seizure whenever he has good reason  
2 to believe that the tax debtor will conceal, part with, or dispose of the movable  
3 property, which fact must be made to appear by the affidavit of the tax collector, or  
4 one of his deputies; he shall advertise the property in the manner provided for in  
5 judicial sales and shall sell, for cash, cashier's check, certified check, money order,  
6 or wire transfer, without appraisalment, the least amount of the property seized which  
7 any bidder will buy for the amount of the taxes, interest, penalties, and costs.

8 \* \* \*

9 §2145. Movable property; additional sanction for tax collection

10 \* \* \*

11 B. If the collector cannot make a seizure of the movable property liable for  
12 the tax assessed against it, either because of the nature of the property assessed or  
13 because the owner or his representative holds it in his possession or under his control  
14 in such a manner that the tax collector cannot lay hands upon it and refuses on  
15 demand to deliver the same to the tax collector, the tax collector shall have the power  
16 to seize any other property belonging to the tax debtor, or he may take into the court  
17 having jurisdiction of the subject matter a summary rule upon the person assessed  
18 or his representative, as the case may be, returnable in five days, in vacation as well  
19 as term time, to compel the delivery to him of said property or so much thereof, if  
20 the same be divisible in kind, as may be necessary to realize at public sale the  
21 amount of the taxes, costs, and penalties. All answers to rules shall be in writing and  
22 shall set forth specifically all defenses relied on by the tax delinquent and shall be  
23 made on or before the time in which the rule is made returnable. If the tax collector  
24 employs the services of an attorney to bring a summary rule to compel delivery of  
25 property, the tax debtor shall pay the sum of twenty percent of the taxes, penalties,  
26 and interest due by the debtor, as attorney fees, which amount shall be collectable in  
27 the same manner as the taxes, interest, penalties, and costs due by such debtor.

28 \* \* \*

§2153. Notice of delinquency and tax sale

\* \* \*

B.

\* \* \*

(5) The tax sale shall convey and the purchaser shall take tax sale title to the whole of the property assessed to the delinquent tax debtor, ~~or if there are separate assessments of undivided interests in an entire property, tax sale title to the whole of the undivided interests assessed to the delinquent tax debtor if it is the least quantity sufficient to satisfy the aggregate of all taxes, interest, penalties, and costs. The least quantity shall be determined by undivided interests.~~ The tax collector shall then proceed to sell ~~the lesser undivided interest of the whole property as will satisfy the charges and shall not entertain a bid in excess thereof; The tax collector may determine and establish that the least quantity that can be sold by undivided interests is one percent or less of the whole. however, any bidder may elect to bid down the~~ five percent penalty, as provided by Louisiana Constitution Article VII, Section 25(B)(1), in increments of one-tenth of one percent. The tax sale shall convey, and the purchaser shall take, tax sale title to the entirety of the property, ~~or in the case of separate assessments for undivided interests in the property, tax sale title to the entirety of the undivided interest, intended to be assessed and sold as it was owned by the delinquent tax debtor~~ regardless of any error in the dimensions or description of the property as assessed and sold. The tax collector in the advertisement or tax sale may give the full description according to original titles.

\* \* \*

§2155. Tax sale certificate

A. The tax collector shall authenticate and file in accordance with law, in person or by deputy, in the political subdivision's name, a tax sale certificate to purchasers of any property to which tax sale title was sold for taxes, in which he shall relate in substance a brief history of the proceedings had, shall describe the property, state the amount of the taxes, interest, penalties, and costs and the bid made

1 for the property, and the payment made to him in cash, cashier's check, certified  
2 check, money order, credit card, or wire transfer, or other payment method, shall sell  
3 tax sale title, and shall conclude the sale with the statement that the property shall be  
4 redeemable at any time during the applicable redemptive period beginning on the day  
5 when the tax sale certificate is filed with the recorder of conveyances in the parish  
6 in which the property is located. The tax sale certificate shall contain the full name  
7 and address of the tax sale purchaser. The tax sale certificate shall be sufficient if  
8 it is in the following form:

9 "Tax Sale Certificate

10 [Name of Political Subdivision]

11 v.

12 [Name of Tax Debtor]

13 State of Louisiana

14 Parish of \_\_\_\_\_

15 City of \_\_\_\_\_

16 To: \_\_\_\_\_

17 BE IT KNOWN AND REMEMBERED, that, I, [Name of tax collector], Tax  
18 Collector in and for the [Name of political subdivision], in the name of the [name of political  
19 subdivision], and by virtue of the authority in me vested by the constitution and laws of the  
20 State of Louisiana and in pursuance of the requirements of those laws, having mailed and  
21 published the notice required by law and having strictly complied with each and every  
22 requirement of the laws relating to delinquent taxes and tax debtors and to seizures,  
23 advertisements, and sale of tax sale title to the property in full, did in the manner prescribed  
24 by law, advertise and list in [name of appropriate journal for legal notices] the property to  
25 be sold for delinquent property taxes with interest and costs for the year(s) of \_\_\_\_\_ in  
26 the [place of sale] on [dates of publication], beginning at ten o'clock A.M., giving notice in  
27 the issues of the newspaper and in said list as advertised the following described immovable  
28 property appearing in the name of \_\_\_\_\_.

1 To-wit:

2 Ward \_\_\_\_\_ Section No. \_\_\_\_\_ Taxes \$ \_\_\_\_\_

3 Assessment No. \_\_\_\_\_ Interest \_\_\_\_\_

4 Penalties \_\_\_\_\_

5 Costs \_\_\_\_\_

6 Total \_\_\_\_\_

7 Property description: \_\_\_\_\_

8 And on said [date], after beginning but not completing said list, I continued the same  
 9 within legal hours each succeeding legal day offering tax sale title to said property for sale  
 10 at public auction in the manner required by said laws and the whole or the undivided interest  
 11 of the tax debtor therein being the smallest amount of said property that any bidder would  
 12 buy and pay the taxes and costs, and [Name of Purchaser] being the bidder, and having  
 13 complied with the terms of sale, became the purchaser of tax sale title to the whole of the  
 14 property or the undivided interest of the tax debtor therein.

15 NOW, THEREFORE, all the formalities of the law having been complied with, I  
 16 [Name of Tax Collector], Tax Collector for said [Name of Political Subdivision], by virtue  
 17 of the authority in me vested by the laws of the State of Louisiana do by these presents sell  
 18 and transfer unto [Name and Address of Purchaser], tax sale title to property or the  
 19 undivided interest of the tax debtor therein last above described with all the improvements  
 20 thereon. The tax debtor or any person interested personally or as heir, legatee, creditor, or  
 21 otherwise, shall have the right to redeem the property for the period of three years [or other  
 22 redemptive period] from the date of filing of this tax sale certificate. The redemption may  
 23 take place by paying the price given including costs and five percent penalty thereon with  
 24 interest at the rate of one percent per month until the redemption.

25 IN TESTIMONY WHEREOF, I have hereunto signed my name officially at  
 26 \_\_\_\_\_, Parish of \_\_\_\_\_, in the presence of the two undersigned  
 27 competent witnesses, who also signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

28 Witnesses:

29 \_\_\_\_\_  
 30 Printed Name: [Name of Tax Collector]

1

2

Printed Name:

[Name of Political Subdivision]

3

4

By:

"

5

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Henry

HB No. 446

**Abstract:** Authorizes an attorney or agency to aid and represent the tax collector of each parish in the collection of all taxes, interest, penalties, and costs; changes the bidding process for tax sale properties to allow a bidder to bid down the five percent penalty provided by the Louisiana constitution; and removes the authority of the tax collector to sell undivided interests in the tax sale property and to determine the least quantity that can be sold by undivided interests.

Present law provides that in the parish of Orleans there shall be an attorney at law to be appointed by the Attorney General, whose duty it shall be to aid the tax collectors in the parish in the collection of all taxes, and to represent the tax collectors in all suits for the reduction of assessments, and provides for the payment of a commission to the attorney of ten per centum (10%) based on the aggregate amount of taxes and penalties collected and paid over to the tax collector.

Proposed law expands present law to apply to all parish tax collectors, removes the appointment authority of the Attorney General, and authorizes the appointment of an agency to assist the parish tax collector.

Present law provides for the collection of taxes, interests, and costs, relative to the tax sale of movable and immovable property.

Proposed law retains present law, but also authorizes the collection of penalties.

Present law provides that the tax sale shall convey and the purchaser shall take tax sale title to the whole of the property assessed to the delinquent tax debtor, or if there are separate assessments of undivided interests in an entire property, tax sale title to the whole of the undivided interests assessed to the delinquent tax debtor if it is the least quantity sufficient to satisfy the aggregate of all taxes, interest, penalties, and costs. The least quantity shall be determined by undivided interests.

Present law provides that the tax collector shall sell the lesser undivided interest of the whole property as will satisfy the charges, and that the tax collector may determine and establish that the least quantity that can be sold by undivided interests is one percent or less of the whole.

Proposed law removes the authority of the tax collector to sell the lesser undivided interest of the whole property and his authority to determine the least quantity that can be sold, but provides that any bidder may elect to bid down the five percent penalty, as provided by La. Const. Art. VII, §25(B)(1), in increments of one-tenth of one percent.

Present law provides that the tax sale shall convey, and the purchaser shall take, tax sale title to the entirety of the property, or in the case of separate assessments for undivided interests in the property, tax sale title to the entirety of the undivided interest, intended to be assessed

and sold as it was owned by the delinquent tax debtor regardless of any error in the dimensions or description of the property as assessed and sold.

Proposed law removes the authority for providing tax sale title to the undivided interest in the case of separate assessments for undivided interests in the property.

(Amends R.S. 47:2062, 2142(A) and (C), 2144, 2145(B), 2153(B)(5), and 2155(A))